

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

LARRY DARNELL GALLOWAY,)
)
Plaintiff,)
)
v.) Case No. 3:18-cv-825-RAH-SMD
) [WO]
HEATH TAYLOR, *et al.*,)
)
Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

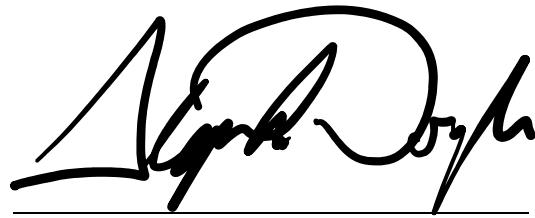
Pro se Plaintiff Larry Darnell Galloway (Plaintiff) brings this action under 42 U.S.C. § 1983, challenging the conditions of his confinement while incarcerated at the Russell County Jail. *Compl.* (Doc. 1) pp. 2–6. In January 2021, the undersigned ordered Plaintiff to inform the Court whether he wishes to proceed in this case. *Order* (Doc. 26) p. 1. The undersigned cautioned Plaintiff that failure to respond would result in a recommendation that this case be dismissed. *Id.* In June 2021, the undersigned again ordered Plaintiff to inform the Court whether he wishes to proceed in this case and advised him that noncompliance would result in a recommendation that this case be dismissed. *Order* (Doc. 27) p. 2. To date, Plaintiff has not answered either order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that “dismissal is warranted only upon a ‘clear record of delay or willful contempt and a finding that lesser

sanctions would not suffice.”” *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the undersigned finds that Plaintiff has willfully failed to inform the Court whether he wishes to proceed in this case. And considering Plaintiff’s disregard for orders of this Court, the undersigned further finds that sanctions lesser than dismissal would not suffice.

Accordingly, the undersigned RECOMMENDS that this case be DISMISSED without prejudice. It is ORDERED that the parties shall file any objections to this recommendation on or before **August 16, 2021**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which each objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge’s findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation, and waives the right of the party to challenge on appeal the District Court’s order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1; *see also Stein v. Lanning Secs., Inc.*, 667 F.2d 33 (11th Cir. 1982); *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

Done this 2nd day of August, 2021.

A handwritten signature in black ink, appearing to read "Stephen M. Doyle". The signature is fluid and cursive, with a large loop on the right side.

Stephen M. Doyle
CHIEF U.S. MAGISTRATE JUDGE